

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER; BRYAN AND)
CHRISTY REHM; DEBORAH)
FENIMORE AND JOEL LIEB; STEVEN)
STOUGH; BETH EVELAND; CYNTHIA)
SNEATH; JULIE SMITH; AND)
ARALENE (“BARRIE”) D. AND)
FREDERICK B. CALLAHAN,)
)
Plaintiffs,)
) Civil Action No. 04-CV-2688
)
v.)
) Hon. John E. Jones, III
)
DOVER AREA SCHOOL DISTRICT;)
DOVER AREA SCHOOL DISTRICT)
BOARD OF DIRECTORS,)
)
Defendants,)
)
MICHAEL AND SHEREE HIED;)
RAYMOND AND CYNTHIA)
MUMMERT; AND JAMES AND)
MARTHA CASHMAN,)
)
Applicants for)
Intervention.)

APPLICATION TO INTERVENE AS DEFENDANTS

Michael and Sheree Hied, Raymond and Cynthia Mummert, and James and Martha Cashman (the “Applicants”) are parents of children who attend schools in the Dover Area School District. Michael and Sheree Hied have a daughter in ninth grade. Raymond and Cynthia Mummert have a son in ninth grade, and a daughter in fifth grade. James and Martha Cashman have a son in eighth grade and a daughter in seventh grade.

For the reasons set forth in the accompanying memorandum of law, which is incorporated by reference herein, the Applicants hereby make this timely application under Federal Rule of Civil Procedure 24 to intervene in this lawsuit. The Applicants seek to intervene because they have a substantial interest – *i.e.*, their First Amendment right of access to information and ideas in an academic setting – that is threatened by this lawsuit. The Applicants’ First Amendment rights are not currently represented adequately by any of the existing parties. As discussed in the accompanying memorandum of law, the Applicants meet all of the requirements for intervention, and their application should be granted. Pursuant to Rule 24(c), a copy of the pleading that Applicants seek to file if this application is granted is attached hereto as Exhibit A.

WHEREFORE, the Applicants respectfully request that this Court grant their Application to Intervene as Defendants.

Dated: January 17, 2005

Respectfully submitted,

DRINKER BIDDLE & REATH LLP

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Cashman*